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NOS. 86-1380 and 86-1424

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1986

ARKANSAS PUBLIC SERVICE COMMISSION, ET AL.,
Petitioners

VERSUS

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent

ARKANSAS POWER & LIGHT COMPANY,
Petitioner

VERSUS

FEDERAL ENERGY REGULATORY COMMISSION, ET AL.
Respondents

On Petitions For A Writ Of
Certiorari To The United States
Court of Appeals For The
District of Columbia Circuit

PRELIMINARY RESPONSE OF THE LOUISIANA PUBLIC SERVICE COMMISSION AND THE STATE OF LOUISIANA TO PETITIONS FOR WRIT OF CERTIORARI

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The Louisiana Public Service Commission ("the Louisiana Commission") and the State of Louisiana (collectively, "Louisiana") hereby

submit this preliminary response to the Petitions for Writ of Certiorari ("Petitions") filed by the Arkansas Public Service Commission, et al. and Arkansas Power & Light Co. ("Arkansas parties") in these proceedings. Louisiana requests that this Court defer consideration of the Petitions and hold them in abeyance until final action on three petitions for rehearing pending before the United States Court of Appeals for the District of Columbia Circuit in the case giving rise to the Petitions. In support of this request, Louisiana adopts and supports the arguments presented in the "Memorandum for the Federal Energy Regulatory Commission" and the "Response of Occidental Chemical Corporation, Georgia Gulf Corporation and Jefferson Parish, Louisiana to Petition for Writ of Certiorari" previously filed with this Court.

The Louisiana Commission is the regulatory authority charged, by Article 4 § 21 of the Louisiana Constitution, with the duty and authority to regulate public utilities in the State of

Louisiana. Both the Louisiana Commission and the State of Louisiana were parties in the proceedings which gave rise to the writ applications at the Federal Energy Regulatory Commission ("FERC") and in the Court of Appeals. In the proceedings below Louisiana opposed the jurisdictional arguments raised in the writ applications filed by the Arkansas parties.

The Petitions seek review of a decision of the Court of Appeals in Mississippi Industries v. Federal Energy Regulatory Commission, No. 85-611 and consolidated cases. Judgment was entered on January 6, 1987. On February 20, 1987, three petitions for rehearing and suggestions for rehearing en banc were filed in the Court of Appeals by three parties to that proceeding: 1) the City of New Orleans; 2) Mississippi Power & Light Company; and 3) the Mississippi Public Service Commission, Mississippi Industries and the Mississippi Attorney General. These three Petitions challenge the FERC decision and the majority

decision of the Court of Appeals on substantive grounds.

The three petitions for rehearing were timely filed with the Court of Appeals and, pursuant to Rule 20.4 of the rules of this Court, the time for filing a petition for writ of certiorari has been tolled as to all parties, until the Court of Appeals acts upon the rehearing petitions. The issues raised in the Petitions and in the various rehearing petitions are interrelated, and judicial economy requires that all issues be dealt with as a whole and not in a piecemeal fashion. Accordingly, this Court should defer consideration of the Petitions of the Arkansas parties and hold in abeyance all further action on the Petitions,

pending final action by the Court of Appeals, on the various petitions for rehearing.

Respectfully submitted,

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